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| CERTIFICATE OF MAILING 37 C.F.R. 1.8 | |
| I certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the date below: | |
| June 6, 2005 Date | Mark T. Garrett |

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Phillip D. Purdy

Serial No.: 09/905,670

Filed: July 13, 2001

For: Methods and Apparatuses for Navigating the
Subarachnoid Space

Group Art Unit: 3763

Examiner: Mark K. Han

Atty. Dkt. No.: UTSD:798US

RESPONSE TO MAY 4, 2005 RESTRICTION/ELECTION REQUIREMENT

Mail Stop – Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

This paper is submitted in response to the May 4, 2005 Restriction/Election of Species Requirement. It is believed that no fee is due; however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to this document, the Commissioner is authorized to deduct the appropriate fees from Fulbright & Jaworski L.L.P. Account No.: 50-1212/UTSD:798US.

In response to the restriction requirement, Applicant elects, without traverse, to prosecute claims 1-28, *i.e.*, the Group I claims.

Applicant further elects Species II and Species B. The Group I claims that “read on” these elected species are 1-8 and 11-13 and 17-28. This election and designation of “corresponding” claims is made only for the purpose of complying with the election requirement and furthering prosecution. Applicants reserve the right to make any argument deemed necessary concerning the scope or proper construction of terms within the designated “corresponding” claims. Nothing in this response should be taken as an admission or disclaimer concerning the scope of the designated claims.

Applicant’s representative discussed the election of species requirement with Examiner Han on May 20, 2005 and again on June 6, 2005. In the May 20, 2005 conversation, Applicant’s representative explained that Species D did not belong with the remaining subspecies that were listed, and that claim 46 (of non-elected Group IV) was generic to all of species I-VII, subspecies A-C and subspecies 1-19. Furthermore, although Applicant’s representative did not mention it during the May 20 call, independent claims 1 and 29, for example, are generic to each of the species and subspecies disclosed by the Office. *See, e.g.*, page 41, lines 4-10; page 42, lines 20–26; and page 43, lines 5-11.

In the June 6, 2005 conversation, Applicant’s representative asked whether an election of species needed to be made if the Group I claims were elected, and Examiner Han explained that it did.

Examiner Han is invited to contact the undersigned attorney at (512) 536-3031 with any questions, comments or suggestions relating to the referenced patent application.

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
(512) 474-5201
(512) 536-4598 (facsimile)
Date: June 6, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark T. Garrett", written over the typed name.

Mark T. Garrett

Reg. No. 44,699

Attorney for Applicant